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VIRGINIA ELECTRIC AND POWER COMPANY

CASE NO. PUR-2021-00045

## ORDER APPROVING RATE ADJUSTMENT CLAUSE

In its Petition, the Company seeks cost recovery for certain environmental projects involving coal combustion residual ("CCR") removal (collectively, "CCR Projects") located at the Company's Brema Power Station ("Brema"), Chesterfield Power Station, Possum Point Power Station ("Possum Point"), and Chesapeake Energy Center (collectively, "Power Stations"). According to the Company, the CCR Projects are required for the Company to comply with SB 1355.<sup>3</sup>

<sup>3</sup> Ex. 2 (Petition) at 4.

Prior to enactment of SB 1355, the Company initially planned to cap and close in place the CCR storage facilities at each Power Station, consistent with federal and state regulations.<sup>4</sup> With the passage of SB 1355 in 2019, however, the Company must remove all CCR from the current storage locations at the Power Stations and either beneficially reuse it or move it to a qualified landfill.<sup>5</sup> The Company states that, to comply with SB 1355, the Company is required to

(i) remove all CCR from the storage units at each Power Station in accordance with applicable standards established by the Virginia Solid Waste Management Regulations and either (a) beneficially reuse all such CCR in a recycling process for encapsulated beneficial use, or (b) dispose of the CCR in a permitted landfill as directed in facilities that meet federal Criteria for Municipal Solid Waste Landfills standards; (ii) beneficiate at least 6.8 million cubic yards of CCR from at least two of the Power Stations; (iii) develop a transportation plan in coordination with local governments impacted by the transport of CCR as directed; (iv) identify options for utilizing and prioritizing hiring of local workers, and advance the Commonwealth's workforce goals; and (v) compile reports detailing the Company's closure plan and progress as directed in the statute.<sup>6</sup>

Dominion seeks approval of a Rider CCR revenue requirement of \$220.761 million for the rate year beginning December 1, 2021, and ending November 30, 2022 ("Rate Year").<sup>7</sup> This amount consists of a Projected Cost Recovery Factor, which includes amortization over the Rate Year of certain deferred costs (including financing costs) incurred prior to the beginning of the Rate Year, and the projected monthly cash expenditures attributable to the CCR Projects.<sup>8</sup>

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<sup>4</sup> *Id.* at 4-5.

<sup>5</sup> *Id.* at 5.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*; Ex. 35 (Robertson Rebuttal) at 2. The Company initially requested approval of a revenue requirement of \$216.146 million; however, as described below, the Company has updated that amount consistent with the Commission Staff's ("Staff") recommended revenue requirement in the amount of \$220.761 million. The Company and Staff, however, acknowledge that the revenue requirement approved for recovery in the Rate Year should be limited to the amount noticed to the public. See Ex. 21 (Welsh) at 2-3; Ex. 35 (Robertson Rebuttal) at 2.

<sup>8</sup> Ex. 2 (Petition) at 6. Rider CCR also includes an Actual Cost True-Up Factor; however, no true-up is included in this proceeding since this filing is the initial request for cost recovery for SB 1355-mandated costs. *Id.*

The Company proposes to bill the Rider CCR rate on a cents per kilowatt-hour ("kWh") basis, which will apply to each Company rate schedule or special contract approved by the Commission pursuant to Code § 56-235.2.<sup>9</sup> Pursuant to Code § 10.1-1402.03, the Company has allocated costs of the CCR Projects to all Virginia customers as a non-bypassable charge, irrespective of the generation supplier of any such customer.<sup>10</sup>

On March 18, 2021, the Commission issued an Order for Notice and Hearing ("Procedural Order"), which, among other things, directed Dominion to provide notice of its Petition, provided interested persons the opportunity to comment or participate in the proceeding, directed Staff to investigate the Petition, scheduled an evidentiary hearing, and assigned a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission.

The following timely filed notices of participation: the Virginia Committee for Fair Utility Rates ("Committee") and the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel").

On June 10, 2021, the Company filed an unopposed Motion for Leave to File Supplemental Direct Testimony ("Motion") and the Supplemental Direct Testimony of Company witnesses Jared R. Robertson and Paul B. Haynes. By ruling dated June 14, 2021, the Hearing Examiner granted the Motion.

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

On June 17, 2021, the Committee filed testimony.<sup>11</sup> On June 22, 2021, Staff filed testimony summarizing the results of its investigation.<sup>12</sup> On July 7, 2021, Dominion filed rebuttal testimony.<sup>13</sup>

On July 27, 2021, the Hearing Examiner conducted a public evidentiary hearing by Microsoft Teams (pursuant to the Hearing Examiner's Ruling dated June 14, 2021) to hear testimony and accept evidence on the Company's Petition.<sup>14</sup> The Company, the Committee, Consumer Counsel, and Staff participated in the hearing. On August 16, 2021, the Company, the Committee, Consumer Counsel, and Staff filed post-hearing briefs.

On September 3, 2021, the Hearing Examiner entered the Report of Mary Beth Adams, Hearing Examiner ("Report"). In the Report, the Hearing Examiner made the following findings:

1. The Rider CCR revenue requirement of \$216.146 million for the Rate Year is reasonable and should be approved;
2. The Company's proposed 12-month amortization period for deferred costs is reasonable;
3. The modified reporting requirements related to certain operational and financial milestones of the CCR Projects are reasonable and should be included with the Company's Rider CCR Annual Update filings;
4. If the Company determines that lower cost options related to beneficiation solutions are technically feasible and can be implemented subject to statutory requirements and executed Company contracts, the Company should reflect the associated savings in reduced project estimates;

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<sup>11</sup> The Committee filed the testimony of Stephen J. Baron.

<sup>12</sup> Staff filed the testimonies of Katya Kuleshova and Sean M. Welsh.

<sup>13</sup> The Company filed the rebuttal testimonies of Brandon E. Stites, Jared R. Robertson and Paul B. Haynes.

<sup>14</sup> The Commission's Procedural Order had scheduled a telephonic public witness hearing for July 27, 2021; however, no public witnesses registered to testify. *See* Tr. 6.

5. The Company should include with its Rider CCR Annual Update filings the technological options it considered for each workstream for any significant contracts it awards, including the respective feasibility and costs analyses;
6. The Company's proposed Factor 3 Non-bypassable allocation methodology and its uniform charge per kWh are reasonable and equitable, and should be approved; and
7. Staff's Rail Option is reasonable, and the Company should be required to perform the Class 2 study that includes both Bremono and Possum Point.<sup>15</sup>

Comments on the Report were filed on September 24, 2021, by Dominion, the Committee, Consumer Counsel and Staff.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the Report's findings and recommendations should be adopted except as discussed herein.

Hearing Examiner's Finding and Recommendation Nos. 1 through 5

We adopt the Hearing Examiner's Finding and Recommendation Nos. 1 through 5, with which no party took issue in comments to the Report.

Hearing Examiner's Finding No. 6

With regard to cost allocation, we adopt the Hearing Examiner's recommendation to approve the Company's proposal to allocate Rider CCR costs on an energy basis by using a Factor 3 Non-bypassable allocation methodology, and to impose a non-bypassable uniform charge per kWh. As noted by the Hearing Examiner, Company, Consumer Counsel and Staff,<sup>16</sup> these costs are not being incurred to enable the continued use of facilities for capacity and energy needs, as was the case with the costs for compliance with Federal CCR rules in

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<sup>15</sup> Report at 34.

<sup>16</sup> See, e.g., *id.* at 24-27; Consumer Counsel Post-hearing Brief at 6; Company Post-hearing Brief at 9-10; Staff Post-hearing Brief at 27-29.

Case No. PUR-2018-00195.<sup>17</sup> They are residual fuel costs from the Company's dispatch of the Power Stations to provide service to *past* customers.<sup>18</sup>

Hearing Examiner's Finding No. 7

Staff asserts there could be opportunities to reduce the overall costs of compliance with SB 1355. Specifically, Staff believes the new Cell 2A/3B at the Curley Hollow Landfill at the Virginia City Hybrid Energy Center ("VCHEC"), planned to go into service in the Fall of 2021 with a capacity of 14.2 million cubic yards, will be large enough to receive the CCR from Bremono and Possum Point.<sup>19</sup> Accordingly, Staff recommends the Company perform a Class 2 study to evaluate the feasibility of constructing a spur from the existing rail line near VCHEC to the Curley Hollow Landfill and transporting the legacy CCR by rail from Bremono and Possum Point for placement into Cell 2A/3B of the Curley Hollow Landfill ("Staff's Rail Option").<sup>20</sup>

The Company disagrees with Staff's proposal and suggests, as an alternative, that the Company conduct a Class 5 study to evaluate Staff's Rail Option, but for the Possum Point facility only.<sup>21</sup> The Company asserts that, based on the type of analysis involved in a Class 2 study and the time and expense required to conduct such a study, "a Class 5 study would be sufficient to achieve the financial analysis proposed by Staff[.]"<sup>22</sup> In response, Staff states that a

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<sup>17</sup> *Virginia Electric and Power Company, For approval of a rate adjustment clause, designated Rider E, for the recovery of costs incurred to comply with state and federal environmental regulations pursuant to § 56-585.1 A 5 e of the Code of Virginia*, Case No. PUR-2018-00195, 2019 S.C.C. Ann. Rept. 328, Final Order (Aug. 5, 2019).

<sup>18</sup> *See, e.g.*, Ex. 13 (Haynes Direct) at 4; Tr. 80-81, 93-95, 98-100.

<sup>19</sup> *See, e.g.*, Staff Post-hearing Brief at 7-8; Ex. 22 (Kuleshova Direct) at 25-27; Tr. 157-62.

<sup>20</sup> *See, e.g.*, Staff Post-hearing Brief at 8-9, 11-13; Ex. 22 (Kuleshova Direct) at 25-27; Tr. 149-66. According to the Company, a Class 2 study "would provide a detailed financial estimate" and involve "a significant amount of engineering analysis." Ex. 32 (Stites Rebuttal) at 2. *See also* Ex. 23 (Cost Estimate Classification Matrix) (reflecting that the estimated cost and time to conduct a Class 2 study are \$600,000 (upper limit) and 6-9 months, respectively).

<sup>21</sup> Ex. 32 (Stites Rebuttal) at 3.

<sup>22</sup> *Id.* at 2-3.

Class 5 study is only a high level "concept screening" analysis, "feasibility" is not evaluated beyond "concept screening," and the methodology includes "judgment" and "analogy."<sup>23</sup> Staff asserts that a Class 2 study would result in a more precise cost estimate and more reliable results.<sup>24</sup> Staff further states that if a Class 5 study demonstrates that Staff's Rail Option may be more economical than the Bremo and Possum Point projects as proposed by the Company, "a subsequent, more precise, study would be required in order to confirm the accuracy of the financial estimates."<sup>25</sup>

As an alternative to Staff's recommendation that the Company conduct a Class 2 study to evaluate Staff's Rail Option, Staff offered, in its post-hearing brief, the option that the Commission direct the Company to perform a Class 3 study, which is used for "budget, authorization, or control" and is estimated to cost up to \$300,000 and take 4-6 months to complete.<sup>26</sup>

The Company subsequently offered the following additional options for the Commission's consideration, in the Company's Comments to the Report: (1) direct the Company to conduct a Class 2 study for Possum Point only, and a Class 5 study for Bremo; or (2) "direct a Class 3 (budget or authorization level) study or Class 4 (feasibility level) study for both facilities to the extent [the Commission] believes it appropriate to do so."<sup>27</sup>

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<sup>23</sup> See, e.g., Staff Post-hearing Brief at 13-15.

<sup>24</sup> *Id.* at 15-16.

<sup>25</sup> *Id.* at 13.

<sup>26</sup> *Id.* at 16; Ex. 23 (Cost Estimate Classification Matrix).

<sup>27</sup> Company Comments at 12. According to the Company's Cost Estimate Classification Matrix, a Class 4 study is used for "study or feasibility" and is estimated to take 2-4 months to perform, with an upper cost estimate of \$120,000. Ex. 23 (Cost Estimate Classification Matrix).

We find that the Company, for both the Bremo and Possum Point facilities, shall conduct a Class 3 study of Staff's Rail Option. Further, the Company is directed to begin the Class 3 study as promptly as possible following issuance of this Order. The Company shall file the results of the Class 3 study with its next petition to update Rider CCR. To the extent the filing of the Company's next Rider CCR petition is delayed because of the study, the Company may ask the Commission to adjust the Rate Year being approved herein accordingly.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations set forth in the Hearing Examiner's Report are adopted, as modified herein.

(2) Rider CCR, as approved herein with a revenue requirement in the amount of \$216.146 million, shall become effective for service rendered on and after December 1, 2021.

(3) The Company shall allocate Rider CCR costs on an energy basis by using a Factor 3 Non-bypassable allocation methodology, and shall impose a non-bypassable uniform charge per kWh.

(4) The Company forthwith shall file a revised Rider CCR and supporting workpapers with the Clerk of the Commission and with the Commission's Divisions of Public Utility Regulation and Utility Accounting and Finance, as is necessary to comply with the directives set forth in this Final Order. The Clerk of the Commission shall retain such filings for public inspection in person and on the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

(5) The Company shall proceed with a Class 3 study of Staff's Rail option, for both the Bremo and Possum Point facilities, subject to the conditions set forth herein, as promptly as possible following issuance of this order. Dominion shall include the results of the Class 3 study with the Company's next Rider CCR filing.



(6) The Company's future Rider CCR filings shall comply with the Hearing Examiner's recommended reporting requirements, as adopted herein, and shall also include the technological options the Company considered for each workstream for any significant contracts it awards, including the respective feasibility and costs analyses.

(7) This case is dismissed.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.